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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,692	03/09/2004	Colby Nash	FY.51040US1A	2923
20995 7590 09/20/2007 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER BROWN, DREW J	
			ART UNIT 3616	PAPER NUMBER
			NOTIFICATION DATE 09/20/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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# Office Action Summary

Application No.

10/796,692

Applicant(s)

NASH ET AL.

Examiner

Drew J. Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 8/9/07 (amendment).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4-36, 38 and 39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-32 and 34 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-22, 33, 35, 36, 38, and 39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. Claims 1 and 39 are objected to because of the following informalities:

In lines 6, 8, and 10 of claim 1, "forth" should be changed to --fourth--.

In line 4 of claim 39, "first rearward-most retainer" should be changed to --first rearward-most upper retainer--.

In line 7 of claim 39, "forward-most rearward-most" should be changed to --forward-most and rearward-most--.

In line 8 of claim 39, "first forward-most retainer" should be changed to --first forward-most upper retainer--.

In line 9 of claim 39, "second forward-most retainer and the first rearward-most retainer" should be changed to --second forward-most lower retainer and the first rearward-most upper retainer --.

In line 10 of claim 39, "second rearward-most retainer" should be changed to --second rearward-most lower retainer--.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

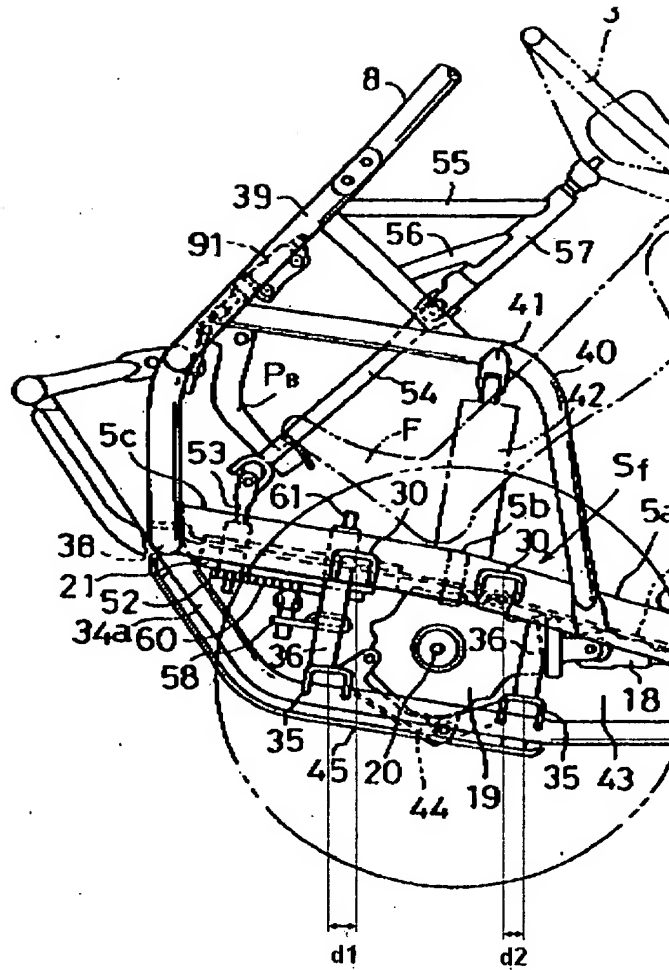
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2; 4-22, 33, 36, 38, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Furuhashi et al. (U.S. Pat. No. 5,327,989).

With respect to claim 1 and 33, Furuhashi et al. discloses an off-road vehicle comprises a frame (1) extending generally fore to aft, at least one wheel (2), and first (31) and second (33) suspension arms, each including a plurality of ends and being configured to suspend the wheel

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from the frame (Figure 4), the frame including two frame members (5 and 34) extending generally fore to aft, the vehicle further comprising front (30) and rear (35) sets of retainers being coupled to the frame members, the retainers of at least one of the front and rear sets being spaced apart from each other in a fore-to-aft direction with a fore-to-aft spacing between the retainers of the rear set (Figure 5), each retainer of the front set being configured to retain an end of a respective suspension arm (31) and each retainer of the rear set being configured to retain an end of a respective suspension arm (33) so as to permit the respective suspension arm to swing relative to the respective set of retainers (Figure 4). A front retainer of each set is configured to retain a front end of a respective suspension arm in a manner permitting the respective suspension arm to swing relative to the respective set of retainers (Figure 4), the front retainers being spaced apart from each other in a fore to aft direction by a distance which is different than a distance by which the rear retainers are spaced apart from each other in a fore to aft direction ( $d1 > d2$  as shown in Figure below).



With respect to claims 1, 33, and 39, Furuhashi et al. does not disclose that the distance between the rearward retainers (d2) is greater than the distance between the forward retainers (d1), or that the forward retainer on the upper side is located forward of the forward retainer on the lower side. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the distance (d1) be larger than the distance (d2) and also to have the upper forward-most retainer be located in front of the lower forward-most retainer, since it has been held that rearranging parts of an invention involves only routine skill in the art. Also, it appears that the invention would perform equally as well with the retainers located in these different positions such that different sized suspension arms could be utilized.

With respect to claim 2, the retainers extend generally vertically relative to the frame members (Figure 5).

With respect to claim 4, the second suspension arm is spaced apart from the first suspension arm generally in the vertical direction (Figure 4), the vehicle additionally comprising a link (32) coupling the first and second suspension arms with each other, the link being coupled to the wheel (Figure 4).

With respect to claims 5 and 21, the tops of the retainers/vertical members are inclined outward relative to a longitudinal center plane of the frame, which extends generally vertically and fore to aft (Figures 4, 5, and 7).

With respect to claims 6 and 22, the first suspension arm is disposed above the second suspension arm (Figure 4), and the second suspension arm is longer than the first suspension arm (column 6, lines 37-39).

With respect to claim 7, each one of the retainers has first (left flanges containing mounting holes in the retainers) and second (right flanges containing mounting holes in the retainers) surfaces opposing each other, and each end of the suspension arm comprises a mount member and that each one of the mount members is journaled between the first and second surfaces of one of the retainers (Figures 4 and 5).

With respect to claim 8, the first and second surfaces extend generally vertically (Figures 4 and 5).

With respect to claim 9, the first and second surfaces extend outward from the respective frame member relative to a longitudinal center plane of the frame, which extends generally vertically fore to aft (Figure 4).

With respect to claim 10, the first and second surfaces extend outward from the respective frame member relative to a longitudinal center plane of the frame, which extends generally vertically and fore to aft (Figure 4).

With respect to claim 11, each one end of the first and second surfaces is connected to the respective frame member (Figure 5).

With respect to claims 12 and 13, the mount members are positioned at different elevations relative to each other (Figure 5). The mount members retained within the portions are positioned higher than the mount members retained within the portions (Figure 5).

With respect to claim 14, the respective ones of the retainers are connected to the respective frame member (Figure 5).

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With respect to claim 15, at least one of the two frame members has a vertical surface (36) extending generally vertically, and the respective retainers are at least partially connected to the vertical surface (Figure 7).

With respect to claim 16, that the at least one of the two frame members is a rectangular parallelepiped member (cross section of frame 5 in Figure 7).

With respect to claim 17, the frame additionally comprises a set of support members (36, Figure 7) and the vehicle further comprises a link (32), the support members extending generally vertically (Figure 5), the support members spaced apart from each other fore to aft (Figure 5), and wherein at least one of the retainers is placed on one of the support members and at least another of the retainers is placed on another one of the support members (Figure 7), the link coupling together the first and second suspension arms, the link being coupled to the wheel (Figure 4).

With respect to claim 18, at least one wheel (2) is rotatable about an axis, a suspension arm (31) is configured to suspend the wheel from the frame, the frame including at least first and second vertical members (36, 36, Figure 5) extending generally vertically, each vertical member supporting an end of the suspension arm on generally opposite sides of the suspension arm (Figure 6), the vertical members spaced apart from each other fore to aft and arranged on opposite sides of the axis of the wheel (Figure 5), the suspension arm being coupled to the vertical members in a manner permitting the suspension arm to swing relative to the frame (Figure 7).

With respect to claim 19, the frame additionally includes first (5) and second (34) horizontal members extending generally horizontally fore to aft to support the vertical members (Figure 7).

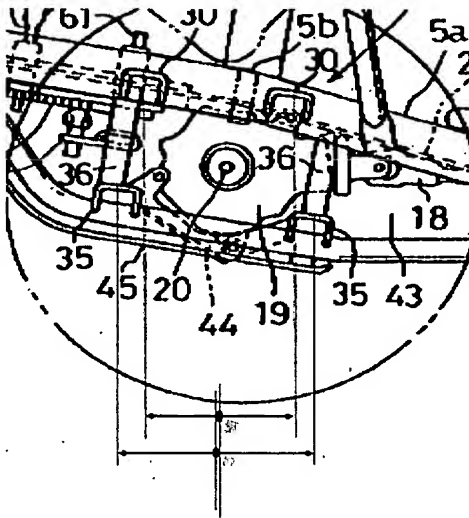
With respect to claim 20, a second suspension arm (33) is spaced vertically apart from the first suspension arm (Figure 4), the second suspension arm also being coupled to the vertical members in a manner permitting the second suspension arm to swing relative to the frame (Figure 7), and a link coupling the first and second suspension arms together (Figure 4), the link supporting the wheel (Figure 4).

With respect to claims 35, Furuhashi et al. discloses the claimed invention as discussed above and that a differential (19) is coupled to the wheel (Figure 5), one of the first and second

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vertical members being disposed generally forward of the differential and the other one of the first and second vertical members being disposed generally rearward of the differential (Figure 5), but does not disclose that it is a rear differential. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the front suspension located at the rear of the vehicle, and the engine (12) located at the front of the vehicle so that the front differential is a rear differential, since it has been held that rearranging parts of an invention involves only routine skill in the art.

With respect to claim 36, a frame (10) and upper (31) and lower (33) suspension arms, the frame extending generally horizontally fore to aft, the upper and lower suspension arms each including two ends being pivotally coupled to the frame (Figure 4), the ends of upper suspensions arm being spaced apart from each other fore to aft at a first length, the ends of the lower suspension arm being spaced apart from each other fore to aft at a second length, wherein a midpoint of the first length is not aligned with a midpoint of the second length along a vertical line (see Figure below).



With respect to claim 37, the fore to aft spacing between the retainers of the rear set is greater than the fore to aft spacing between the retainers of the front set (Figure 5).

#### *Allowable Subject Matter*

4. Claims 23-32 and 34 are allowed.



***Response to Arguments***

5. Applicant's arguments filed 8/9/07 have been fully considered but they are not persuasive.

In response to the argument on pages 12 and 13 that the spacing between the rear retainers is larger than the spacing between the front retainers, the Examiners maintains the rejection is improper as discussed above.

In response to the argument on page 13 that the tubes are not generally vertical, the Examiner maintains the rejection is proper because the term "generally" is a relative term, and as broadly interpreted, a generally vertically extending element is generally vertical as long as it has a vertical component.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew J. Brown whose telephone number is 571-272-1362. The examiner can normally be reached on Monday-Thursday from 8 a.m. to 4 p.m..

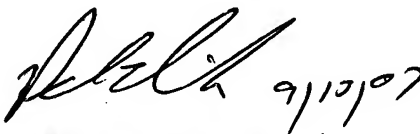
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Drew J. Brown  
Examiner  
Art Unit 3616

db  
9/12/07

  
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